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**FILED**  
DISTRICT COURT OF GUAM

IN THE UNITED STATES DISTRICT COURT APR 12 2007 m/c  
APR 12 2007 m/c

FOR THE DISTRICT OF GUAM MARY L.M. MORAN  
CLERK OF COURT

UNITED STATES OF AMERICA ) CRIMINAL CASE NO. 05-00031

Plaintiff, )

vs. )

WILLIAM BRUCE SAN MIGUEL )  
FLORES, also known as Willy Flores, )

Defendant. )

MOTION TO VACATE SENTENCE

Defendant hereby moves to vacate his sentence pursuant to Title 22 U.S.C. 2255.

MEMORANDUM OF POINTS AND AUTHORITIES

1. Defendant pled guilty to Conspiracy to Commit Money Laundering, a violation of Title 18 U.S.C. 1956(b).
2. On October 27, 2005, he was sentenced to eight months incarceration.
3. Defendant alleged in an appeal to the Ninth Circuit Court of Appeals that the sentencing judge had demonstrated prejudice against him at Sentencing, but that appeal was denied.

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**THE LAW OFFICE OF DAVID J. HIGHSMITH, PC.**

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In the United States District Court,  
For the District of Guam  
United States of America v. William B S.M. Flores  
Motion to Vacate Sentence  
Criminal Case No. 05-00031  
Page 2

4. Defendant now alleges an additional ground of prejudice on the part of the  
5 same judge, namely, that during the trial of a co-conspirator, Gil Shinohara, the judge  
6 congratulated Mr. Shinohara's defense lawyers on putting Mr. Flores on trial instead of Mr.  
7 Shinohara.

8. Said remark occurred outside the record in this proceeding in that it occurred  
9 in Mr. Shinohara's case and could not be raised on Mr. Flores's appeal.

10. 6. This constitute impermissible prejudice against the Defendant. Liteky v. U.S.,  
11 510 U.S. 540, 114 S. Ct. 1147, 127 L. Ed 2d 474 (1994).

12. 7. A judge's prejudice or bias can be raised on a Motion to Vacate Sentence  
13 brought pursuant to Title 28 U.S.C. 2255. Sellers v. United States, 574 F. Supp. 769  
14 (1983).

15. 8. Defendant prays that his previous sentence be vacated and that he be resentenced.

16. 17. RESPECTFULLY SUBMITTED,

18. 19.   
20. DAVID J. HIGHSMITH  
21. DEFENSE COUNSEL